IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.8427 OF 2003

Md. Adam Ismail Khairdi : Petitioner
(Orig. Respondent)

V/s.

Smt.Rajasbai Vidyadhar Gaikwad : Respondent
(Orig.Applicant)

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Mr.I.M. Khairdi for the petitioner.

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CORAM : S.A. BOBDE, J.

January 19, 2005.

P.C.:

1. The petitioner-landlord challenged the order dated 5.8.2003 passed by the IIIrd Addl. District Judge, Solapur, rejecting the application for review of the order dated 10.1.2002 passed by the Vth Addl. Dist. Judge, Solapur. Proceedings were initiated by the petitioner for fixation of standard rent. The petitioner states that standard rent of the premises ought to be Rs.50/-. The appellate Court, however, fixed it at Rs.16/- per month plus Municipal taxes.

2. The petitioner then sought a review of the judgement and order of the appellate Court on the ground that one

document on which the appellate Court had relied (exh.35) has not been proved. The document consists of a form filled in by the landlord and tendered to the Municipal Corporation under Chapter 8(2) of the Bombay Provincial Municipal Corporation Act, 1949. It contains information provided by the owner of the property. According to Mr.Khairdi, learned counsel for the petitioner, the document cannot be considered to be a document under section 74 of the Evidence Act. This submission of the learned counsel is correct. However, I find that the document has not been treated as a public document. It has been taken to be proved since it was produced by an Officer of the Municipal Corporation who was summoned to prove it. Merely because the witness stated that he had no personal knowledge of the contents would not render a document liable to be discarded. In this view of the matter and having regard to the fact that the document came from proper custody and the fact that there is no averment in the petition that the contents of the documents are not filled in by the petitioner or by the owner of the property, there is no reason to interfere.

3. The Writ Petition is, therefore, dismissed.

Sd/-

S.A. BOBDE, J.